

CITY OF GLENN HEIGHTS, TEXAS

ORDINANCE NO. O-16-08

AN ORDINANCE OF THE CITY OF GLENN HEIGHTS, TEXAS, AMENDING CHAPTER 13, "UTILITIES" TO ESTABLISH A NEW ARTICLE 13.10 ENTITLED "STORM WATER PROTECTION" RELATIVE TO THE REGULATION AND PROHIBITION OF ILLICIT DISCHARGES; DEFINING TERMS; PROHIBITING CERTAIN DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM; AUTHORIZING INSPECTIONS AND DECLARING SUCH DISCHARGES A NUISANCE; PROHIBITING ILLICIT CONNECTIONS TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM; PROVIDING FOR NOTICES OF VIOLATION AND OTHER ADMINISTRATIVE ENFORCEMENT REMEDIES; PROVIDING AUTHORITY TO SUSPEND UTILITY SERVICE; PROVIDING FOR CIVIL AND CRIMINAL ENFORCEMENT; PROVIDING A PENALTY FOR FAILURE TO COMPLY; PROVIDING A SEVERABILITY CLAUSE; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, federal and state laws and regulations require certain cities based on size and location to comply with applicable storm water permitting requirements for municipal separate storm sewer systems (MS4s); and

WHEREAS, Chapter 342 of the Texas Health & Safety Code authorizes cities to regulate sanitation; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has adopted the Texas Pollutant Discharge Elimination System (TPDES) Phase II Small MS4 General Permit, General Permit No. TXR040000 (General Permit) to allow such cities, including the City, to obtain the necessary permit coverage; and

WHEREAS, the City has sought permit coverage under the General Permit through its submittal of a Notice of Intent (NOI) and Storm Water Management Program (SWMP) to TCEQ; and

WHEREAS, the General Permit and the SWMP require the City to develop, to the extent allowable under state and local law, an ordinance or other regulatory mechanism to prohibit and eliminate illicit discharges to the City's MS4; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the public health, safety, and general welfare of the public to adopt this ordinance to address storm water discharges to the City's MS4.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS, THAT:

SECTION 1. All of the above premises are hereby found to be true and correct and are hereby approved and incorporated for all purposes into the body of this Ordinance as if copied in their entirety.

SECTION 2. The City Council hereby adds new Article 13.10, entitled “Storm Water Protection,” to Chapter 13, of the City of Glenn Heights Code of Ordinances, to read, in its entirety, as follows:

“ARTICLE 13.10. STORM WATER PROTECTION

Sec. 13.10.001. Definitions.

For the purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning, and any words not herein defined shall be construed in context used and by ordinary interpretation and not as a word of art:

Agricultural Storm Water Runoff. Any storm water runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 C.F.R. § 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 C.F.R. § 122.24.

City. The City of Glenn Heights, Texas, or its agents.

Clean Water Act (CWA). The Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 *et. seq.*, as it exists and as it may be amended.

Code Enforcement Official. A city employee or person or entity acting under a contract with the City, authorized to enforce the provisions of this Article and City ordinances, including, but not limited to the building official, inspector, Code Enforcement Officer, Code Compliance Officer, or his/her designee.

Construction Site Notice. A signed and certified submission to the operator of the MS4 (*i.e.*, the City) from an operator of a Small Construction Activity identifying coverage pursuant to the Construction General Permit.

Contaminated. Containing a harmful quantity of any substance.

Contamination. The presence of or entry into a public water supply system, the MS4, surface water in the state, or waters of the United States of any substance which may be deleterious to the public health and/or the quality of the water, as determined by, or pursuant to, federal or state law.

Conveyance. Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport storm water runoff.

Discharge. Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the MS4, surface water in the state, or waters of the United States.

Discharger. Any person who causes, allows, permits, or is otherwise responsible for a discharge including, without limitation, any operator of a construction site or industrial facility.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.

Facility. Any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer. A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

Fire Code. Article 5.03, the International Fire Code, of the City Code.

Fire Department. The Glenn Heights Fire Department, or any duly authorized representative thereof.

Fire Protection Water. Any water, and any substances or materials contained therein, used by any person other than the Fire Department to control or extinguish a fire.

Garbage. For the purpose of this Article, solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Ground Water Infiltration. For the purposes of this Article, ground water that enters a municipal separate storm sewer system (including sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.

Harmful Quantity. The amount of any substance that will cause pollution of surface water in the state or waters of the United States, or that will cause lethal or sub-lethal adverse effects on representative, sensitive aquatic monitoring organisms, upon their exposure to samples of any discharge into surface water in the state, waters of the United States, or the MS4, as determined by, or pursuant to, federal or state law.

Herbicide. A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

Household Hazardous Waste. Waste from materials utilized for residential or housekeeping purposes containing regulated substances which either singularly or by their interaction with other wastes or by their accumulation in the MS4 becomes injurious or potentially injurious to human, plant, or animal life, or property. For purposes of this Article, household hazardous wastes include but are not limited to paint, paint thinners, paint solvents, bleaches, and drain cleaners.

Illicit Connection. Any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit Discharge. Any discharge to a municipal separate storm sewer that is not entirely composed of storm water.

Industrial Activity. Any activity subject to the Multi-Sector General Permit.

Large Construction Activity. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance. Large construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

Municipal Separate Storm Sewer System (MS4). A separate storm sewer system owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, that discharges to surface water in the state.

National Pollutant Discharge Elimination System (NPDES). The federal program under which the administrator of the U.S. Environmental Protection Agency can authorize discharges of waste to waters of the United States according to Section 402 of the Clean Water Control Act, and may also delegate this permitting authority to the State of Texas.

No Exposure Certification (NEC). A written submission to the Executive Director TCEQ from an applicant for the Multi-Sector General Permit notifying the applicant's intent to obtain a conditional exclusion from permit requirements by certifying that there is no exposure of industrial material or activities to precipitation or runoff.

Notice of Change (NOC). Written notification from a permittee pursuant to the Multi-Sector General Permit or the Construction General Permit to the Executive Director of TCEQ providing changes to information that was previously provided to TCEQ in a Notice of Intent (NOI) or No Exposure Certification (NEC) form.

Notice of Intent (NOI). A written submission to the Executive Director of TCEQ from an applicant requesting coverage under the Multi-Sector General Permit or the Construction General Permit.

Notice of Termination (NOT). A written submission to the Executive Director of TCEQ from a permittee authorized under the Multi-Sector General Permit or the Construction General Permit requesting termination of coverage.

NPDES Permit. A permit issued by EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Operator. The person or persons who, either individually or taken together, meet the following two criteria: (1) they have operational control over the facility specifications (including the ability to make modifications in specifications); and (2) they have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

Owner. The person who owns a facility or part of a facility.

Person. Any individual, firm, partnership, association, business, corporation, or other entity.

Pesticide. A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as those terms are defined in Section 76.001 of the Texas Agriculture Code).

Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any surface water in the state. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. For the purpose of this Article, the term "pollutant" includes sediment.

Pollution. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Property. All privately owned, occupied, or unoccupied property, including vacant land, and/or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term shall also include a yard, ground, wall, driveway, fence, porch, steps, or other structure appurtenant to the property or otherwise known as curtilage.

Publicly Owned Treatment Works (POTW). A treatment works, as defined by Section 212 of the Clean Water Act, owned by the City or other public entity, including any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, and other conveyances which convey wastewater to a treatment plant.

Regulated Construction Activity. A large construction activity or a small construction activity, as those terms are defined herein.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the (MS4), surface water in the State, or waters of the United States.

Rubbish. Nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, brush, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

Small Construction Activity. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance. Small construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

Small Municipal Separate Storm Sewer System (Small MS4). Refers to a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the CWA;

2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer;
4. Which is not part of a publicly owned treatment works (POTW) as defined in 40 C.F.R. § 122.2; and
5. Which was not previously authorized under an NPDES or a TPDES individual permit as a medium or large municipal separate storm sewer system, as defined at 40 C.F.R. § 122.26(b)(4) and (b)(7).

This term includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. This term does not include separate storm sewers in very discrete areas, such as individual buildings. A very discrete system also includes storm drains associated with certain municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to an MS4 that is also operated by that public entity.

Solid Waste. Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semi-solid, or containing gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

Storm Water and Storm Water Runoff. Rainfall runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Pollution Prevention Plan (SWPPP). A plan required by either the Construction General Permit or the Multi-Sector General Permit which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction or other industrial activity at the facility.

Surface Water in the State. Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the State (from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the State; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the State.

Texas Pollutant Discharge Elimination System (TPDES). The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act §§ 307, 318, 402, and 405, the Texas Water Code, and Texas Administrative Code regulation.

TPDES General Permit for Storm Water Discharges Associated with Construction Activity (Or the Construction General Permit) (CGP). The Construction General Permit issued by TCEQ on February 15, 2008, TPDES General Permit No. TXR150000, as it exists and as it may be renewed and/or amended.

TPDES General Permit for Storm Water Discharges Associated with Industrial Activity (Or the Multi-Sector General Permit) (MSGP). The Multi-Sector General Permit issued by TCEQ on August 14, 2006, TPDES General Permit No. TXR050000, as it exists and as it may be renewed and/or amended.

TPDES General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (Or the Small MS4 General Permit). The Small MS4 General Permit issued by TCEQ on August 13, 2007, TPDES General Permit No. TXR040000, as it exists and as it may be renewed and/or amended.

TPDES Permit. A permit issued by TCEQ that authorizes the discharge of pollutants to surface water in the State and/or waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Uncontaminated. Not containing a harmful quantity of any substance, as determined by, or pursuant to, federal or state law.

Used Oil (Or Used Motor Oil). Any oil that has been refined from crude oil or synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with State and federal law.

Waters of the United States (Or Waters of the U.S.).

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. all interstate waters, including interstate wetlands;
3. all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (A) which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (B) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

- (C) which are used or could be used for industrial purposes by industries in interstate commerce;
- 4. all impoundments of waters otherwise defined as waters of the United States under this definition;
- 5. tributaries of waters identified in paragraphs 1. through 4. of this definition;
- 6. the territorial sea; and
- 7. wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 C.F.R. § 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with EPA.

Yard Waste. Leaves, grass clippings, yard and garden debris, and brush that results from landscape maintenance and land-clearing operations.

Sec. 13.10.002. Abbreviations.

The following abbreviations, when used in this Article, shall have the designated meanings:

C.F.R. – Code of Federal Regulation

CGP – Construction General Permit, TPDES General Permit TXR150000

CWA – Clean Water Act

EPA – U.S. Environmental Protection Agency

MS4 – Municipal Separate Storm Sewer System

MSGP – Multi-Sector General Permit, TPDES General Permit No. TXR050000

NEC – No Exposure Certification

NOC – Notice of Change

NOI – Notice of Intent

NOT – Notice of Termination

NPDES – National Pollutant Discharge Elimination System

POTW – Publicly Owned Treatment Works

SWMP – Storm Water Management Program

SWPPP – Storm Water Pollution Prevention Plan

TCEQ – Texas Commission on Environmental Quality

TPDES – Texas Pollutant Discharge Elimination System

Sec. 13.10.003. Applicability.

This Article, including any amendments or revisions thereto, shall apply to all water entering the MS4 generated on any developed and undeveloped lands lying within the City of Glenn Heights.

Sec. 13.10.004. Administration.

The Code Enforcement Official shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Code Enforcement Official may be delegated by the Code Enforcement Official to persons or entities acting in the beneficial interest of or in the employ of the City.

Sec. 13.10.005. Regulatory Consistency.

This Article shall be construed to assure consistency with the Clean Water Act and the Texas Water Code, and amendments thereto, or any applicable implementing regulations.

Sec. 13.10.006. Ultimate Responsibility of Discharger.

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into surface water in the state or waters of the United States caused by said person. This Article shall not create liability on the part of the City of Glenn Heights, or any agent or employee thereof, for

any damages that result from the discharger's reliance on this Article or any administrative decision lawfully made there under.

Sec. 13.10.007. General Prohibition.

- (a) No person shall, and it shall be an offense to, introduce or caused to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of storm water.
- (b) It is an affirmative defense to any enforcement action for violation of Subsection (a) of this section that the discharge was composed entirely of one or more of the following categories of discharges:
 - (1) A discharge authorized by, and in full compliance with, a TPDES permit or an NPDES permit (other than the TPDES permit authorizing discharges from the MS4);
 - (2) A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless it contains no harmful quantity of total residual chlorine ("TRC") or any other chemical used in line disinfection;
 - (3) A discharge or flow from runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
 - (4) A discharge or flow from a potable water source not containing any harmful substances or material from the cleaning or draining of a storage tank or other container;
 - (5) A discharge or flow from a diverted stream;
 - (6) A discharge or flow from rising ground waters and springs;
 - (7) Uncontaminated ground water infiltration (as defined by 40 C.F.R. § 35.2005(20)) to the MS4;
 - (8) A discharge or flow from uncontaminated pumped ground water;
 - (9) An uncontaminated discharge or flow from foundation and footing drains;
 - (10) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;

- (11) An uncontaminated discharge or flow of water from crawl space pumps;
 - (12) A discharge or flow from individual residential vehicle washing;
 - (13) A discharge or flow from wetlands and riparian habitats;
 - (14) A discharge or flow of swimming pool water that contains no harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
 - (15) A discharge or flow from street wash water that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
 - (16) A discharge or flow from fire fighting activities by the Fire Department (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
 - (17) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
 - (18) Agricultural storm water runoff; and
 - (19) A discharge or flow from other similar occasional incidental non-storm water discharges, as determined by the City Manager.
- (c) No affirmative defense shall be available under Subsection (b) of this Section if:
- (1) The discharge or flow in question has been determined by the Code Enforcement Official to be a source of a pollutant(s) or pollution to surface water in the State, waters of the United States, or the MS4;
 - (2) Written notice of such determination has been provided to the discharger; and
 - (3) The discharge has continued after the expiration of the time given in the notice to cease the discharge. The correctness of the Code Enforcement Official's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding in accordance with city ordinances and state law, as may be applicable.

Sec. 13.10.008. Specific Prohibitions and Requirements.

- (a) The specific prohibitions and requirements in this Section are not inclusive of all the discharges prohibited by the General Prohibition in Section 13.10.007.
- (b) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of any substance.
- (c) A person commits an offense if the person introduces or causes to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard or the City's authorization pursuant to the Small MS4 General Permit for discharges from its MS4.
- (d) A person commits an offense if the person dumps, spills, leaks, pumps, pours, emits, empties, discharges, leaches, disposes, or otherwise introduces or causes to be introduced, allows, or permits to be introduced any of the following substances into the MS4:
 - (1) Any used motor oil, antifreeze, or any other motor vehicle fluid;
 - (2) Any industrial waste;
 - (3) Any hazardous waste, including household hazardous waste;
 - (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 - (5) Any garbage or rubbish;
 - (6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than ten such vehicles;
 - (7) Any direct discharge of a pesticide or fertilizer;
 - (8) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
 - (9) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
 - (10) Any wastewater from commercial floor, rug, or carpet cleaning;
 - (11) Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down

or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released materials has been previously removed;

- (12) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler;
- (13) Any ready-mix concrete, mortar, ceramic, or asphalt base material or hydromulch material, or material from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
- (14) Any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area containing more than five (5) animals;
- (15) Any filter backwash from a swimming pool, fountain, or spa;
- (16) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
- (17) Any discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in water line disinfection;
- (18) Any fire protection water containing oil or hazardous substances or materials that the Fire Code in this Code of Ordinances requires to be contained and treated prior to discharge, unless treatment is adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from fire fighting activities by the Fire Department as further set forth herein.)
- (19) Any water from a water curtain in a spray room used for painting vehicles or equipment;
- (20) Any contaminated runoff from a vehicle salvage yard, junk yard, auto repair activities, or storage of vehicles on unimproved surfaces;
- (21) Any substance or material that will damage, block, or clog the MS4;
- (22) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
 - (a) Compliance with all state and federal standards and requirements;
 - (b) No discharge containing a harmful quantity of any pollutant; and

- (c) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 milligrams per liter of total petroleum hydrocarbons (TPH).

(e) Yard Waste Regulation. A person commits an offense if the person:

- (1) Discharges, deposits, discards, or dumps, or causes or allows to be discharged, deposited, discarded, or dumped any grass clippings, leaf litter, brush cuttings, and/or animal waste into the MS4.
- (2) Places or causes to be placed or dropped, grass clippings, leaf litter, brush cuttings, and/or animal waste within any street in the corporate limits of the city in such a manner that the same may be washed by the flow of water into the MS4.

It shall be a defense to prosecution that these wastes occurred naturally or from normal landscape maintenance (*e.g.*, leaves falling from trees, grass clippings left on lawns). Intentionally sweeping or blowing grass clippings or leaves into the streets or gutters is prohibited.

- (f) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation, or other construction activities, or associated with filling or other placement or disposal of soil, rock, or other earthen materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.

(g) Illicit Connection Regulation.

- (1) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (h) A person commits an offense if the person causes or allows any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained grease, oil, and sand interceptor before discharge into the MS4.

(i) Used Oil Regulation. A person commits an offense if the person:

- (1) discharges used oil into the MS4 or a sewer, drainage system, septic tank, surface water, ground water, or water course;

- (2) knowingly mixes or commingles used oil with solid waste that is to be disposed of in a landfill or knowingly directly disposes of used oil on land or in a landfill; or
- (3) applies used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

Sec. 13.10.009. Nuisance and General Violation.

- (a) An actual or threatened discharge to the MS4 that violates or would violate this Article is hereby declared to be a nuisance.
- (b) A line conveying sewage or designed to convey sewage that is connected to the MS4 is hereby declared to be a nuisance.
- (c) Notwithstanding any other provision herein to the contrary, the Code Enforcement Official shall not be required to provide written notice or a warning prior to taking criminal enforcement action and/or any other legally available enforcement action.
- (d) If the City mails notice in accordance with the provisions stated in this Article, and the notice is returned “refused” or “unclaimed,” said notice shall be deemed delivered for purposes of enforcement action as provided herein.

Sec. 13.10.010. Submission of NOI or Construction Site Notice to City.

- (a) The operator of a facility, including construction sites, required to have a TPDES permit to discharge storm water associated with industrial activity or regulated construction activity shall submit a copy of the NOI, Construction Site Notice, NOC, NOT, and/or NEC to the Director of Municipal Services at the same time the operator submits the original NOI, NOC, NOT, and/or NEC to the TCEQ or is required to submit the Construction Site Notice to the operator of the MS4 (i.e., the City) by the Construction General Permit.
- (b) The copy of the NOI, Construction Site Notice, NOC, NOT, and/or NEC may be delivered to the Director of Municipal Services either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Director of Municipal Services
City of Glenn Heights
1938 South Hampton
Glenn Heights, Texas 75154

- (c) A person commits an offense if the person operates a facility that is discharging storm water associated with an industrial activity or a regulated construction activity without

having submitted a copy of the NOI or the Construction Site Notice to do so to the Director of Municipal Services.

Sec. 13.10.011. Modification of Storm Water Pollution Prevention Plans.

- (a) The City Manager may require any operator of a facility to modify the facility's storm water pollution prevention plan (SWPPP) if in the best professional judgment of the City Manager, the SWPPP does not comply with this Article or with the requirements of the facility's TPDES or NPDES permit to discharge storm water associated with an industrial activity or a regulated construction activity.
- (b) The deficiencies in a facility's SWPPP will be identified in writing, and the City Manager will give the facility operator a reasonable amount of time, not to exceed thirty (30) days, to make the necessary changes in the SWPPP.

Sec. 13.10.012. Right of Entry: Inspection and Sampling.

- (a) The Code Enforcement Official shall have the right to enter the premises of any person discharging storm water to the MS4, to surface water in the State, or to waters of the United States to determine if the discharger is complying with all requirements of this Article. Dischargers shall allow the Code Enforcement Official ready access to all parts of the premises for purposes of inspection, sampling, records, examination, and copying, and for the performance of any additional duties. Dischargers shall make available to the Code Enforcement Official, upon request, any SWPPPs, modifications, thereto, self-inspection reports, monitoring records, compliance evaluations, NOIs, Construction Site Notices, NOCs, NOTs, NECs, and any other records, reports, and other documents related to compliance with this Article.
- (b) Where the discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Code Enforcement Official will be permitted to enter without delay for the purposes of performing his/her responsibilities.
- (c) The Code Enforcement Official shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the discharger's operations, at the discharger's sole cost and expense.
- (d) The Code Enforcement Official may require any discharger to the MS4, surface water in the State, or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its storm water dischargers, and may specify the frequency and parameters of any such required monitoring, at the discharger's sole cost and expense.

- (e) The Code Enforcement Official may require the discharger to install monitoring equipment as necessary at the discharger's sole cost and expense. The facility's sampling and monitoring equipment, as required by this Section, shall be maintained at all times in a safe and proper operating condition by the discharger at the discharger's sole cost and expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (f) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the Code Enforcement Official and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
- (g) Unreasonable delays in allowing the Code Enforcement Official access to the discharger's premises shall be a violation of this Article.
- (h) If entry onto the property is refused, the Code Enforcement Official shall have every recourse provided by law, including but not limited to an administrative search warrant or an injunction to secure entry. If the owner, operator, discharger, or person in control of the property cannot be identified or located, the Code Enforcement Official shall be authorized to enter the property to the extent allowed by, and in accordance with, law.

Sec. 13.10.013. Administrative Enforcement Remedies

- (a) Warning Notice. When the Code Enforcement Official finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Code Enforcement Official may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Code Enforcement Official to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.
- (b) Notification of Violation. When the Code Enforcement Official finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Code Enforcement Official may serve upon that person a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the Code Enforcement Official. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Code Enforcement Official within ten (10) days of receipt of the notice. Submission of an explanation and/or plan in no way

relieves the alleged violator of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Code Enforcement Official to take any action, including emergency action or any other enforcement action, without first issuing a Notice of Violation.

- (c) Consent Orders. The City Manager may enter into Consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this Article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Subsections (e), and (f), of this Section and shall be judicially enforceable.
- (d) Show Cause Hearings. The City Manager may order any person who has violated, or continues to violate, any provision of this Article, or any order issued hereunder, to appear before the City Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in Section 13.10.016 of this Article. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the alleged violator, including, but not limited to, criminal or injunctive relief.
- (e) Compliance Orders. When the City Manager finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the City Manager may issue an order to the violator directing that the violator come into compliance within a specified time period. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4, surface water in the State, and waters of the United States. A compliance order may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the violator, including, but not limited to, criminal or injunctive relief.
- (f) Emergency Cease and Desist Orders. When the City Manager finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) have caused or contributed to an actual or threatened discharge to the MS4, surface water in the State, or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to

the environment, the City Manager may issue an order to the violator directing the violator to immediately cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all requirements of this Article; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City Manager may take such steps as deemed necessary to prevent or minimize harm to the MS4, surface water in the State, or waters of the United States, and/or endangerment to persons or to the environment. The City Manager may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City Manager that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City Manager within five (5) days of the receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

Sec. 13.10.014. Emergency Suspension of Utility Service and MS4 Access.

- (a) The City may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person discharging to the MS4, surface water of the state, waters of the United States, or the POTW when such suspension is necessary to stop an actual or threatened discharge which:
 - (1) Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or
 - (2) Presents or may present imminent and substantial danger to the MS4, surface water in the State, or waters of the United States.
- (b) When the Code Enforcement Official determines that City-provided water and/or sanitary sewer service or MS4 access needs to be suspended pursuant to subsection (a), the Code Enforcement Official shall request the City Manager to do so.
- (c) As soon as is practicable after the suspension of service or MS4 access, the Code Enforcement Official shall notify the violator of the suspension in person or by registered mail or certified mail (return receipt requested) and shall order the violator to cease the

discharge immediately. When time permits, the Code Enforcement Official should also attempt to notify the violator prior to suspending service or access.

- (d) If the violator fails to comply with an order issued under subsection (c), the City Manager may take such steps as the City Manager deems necessary to prevent or minimize damage to the MS4, surface water in the State, or waters of the United States, or to minimize danger to persons.
- (e) The City shall not reinstate suspended services or MS4 access to the violator until:
 - (1) The violator presents proof, satisfactory to the City Manager, that the noncomplying discharge has been eliminated and its cause determined and corrected;
 - (2) The violator pays the City for all costs the City incurred in responding to, abating, and remediating the discharge or threatened discharge; and
 - (3) The violator pays the City for all costs the City will incur in reinstating service or access.
- (f) A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the City Manager, in writing, within ten (10) days of notice of the suspension in accordance with Section 13.10.016 of this Article.
- (g) The City may obtain a lien against the property to recover its response costs pursuant to the procedure set out in Section 13.10.017 of this Article.
- (h) The remedies provided by this Section are in addition to any other remedies set out in this Article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

Sec. 13.10.015. Non-Emergency Suspension of Utility Service and MS4 Access.

- (a) The City may terminate the City-provided water supply, sanitary sewer connection, and/or MS4 access of any person discharging to the MS4 in violation of this Article, if such termination would abate or reduce the illicit discharge.
- (b) The Code Enforcement Official will notify a violator of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access. The violator may petition the City Manager for a reconsideration and hearing pursuant to Section 13.10.016 of this Article.
- (c) The City shall not reinstate suspended services or MS4 access to the discharger until:

- (1) The violator presents proof, satisfactory to the City Manager, that the noncomplying discharge has been eliminated and its cause determined and corrected; and
- (2) The violator pays the City for all costs the City will incur in reinstating service or MS4 access.
- (d) The remedies provided by this section are in addition to any other remedies set out in this Article. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.
- (e) A person commits an offense if the person reinstates, causes to reinstate, permits or receives a benefit from the reconnection of the water service, sanitary sewer service, and/or MS4 access to premises terminated pursuant to this Section, without the prior approval of the City Manager.

Sec. 13.10.016. Right to Reconsideration and Hearing

- (a) Any person subject to a Compliance Order under Section 13.10.013(e), an Emergency Cease and Desist Order under Section 13.10.013(f), an Emergency Suspension of Utility Service or MS4 Access under Section 13.10.014, or a Non-Emergency Suspension of Utility Service or MS4 Access under Section 13.10.015 of this Article may petition the City Manager to reconsider the basis of his/her order or suspension within ten (10) days of the affected person's notice of issuance of such an order or suspension.
- (b) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order or suspension.
- (c) In its petition, the petitioning party must indicate the provisions of the order or suspension objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioning party's view of the facts, any alternative terms of an order that the petitioning party would accept, and whether the petitioning party requests a hearing on its petition.
- (d) The effect of any Compliance Order under Section 13.10.013(e) or Non-Emergency Suspension of Utility Service or MS4 Access under Section 13.10.015 shall be stayed pending the City Manager's reconsideration of the petition, and any hearing thereon, unless the City Manager expressly makes a written determination to the contrary. The effectiveness of any Emergency Cease and Desist Order under Section 13.10.013(f) or Emergency Suspension of Utility Service or MS4 Access under Section 13.10.014 shall not be stayed pending the City Manager's reconsideration, or any hearing thereon, unless the City Manager expressly and in writing stays his/her emergency order or emergency suspension of utility service or MS4 access.

- (e) Within fifteen (15) days of the submittal of a petition for reconsideration, the City Manager shall either:
 - (1) Grant the petition and withdraw or modify the order or suspension accordingly;
 - (2) Deny the petition, without hearing if no material issue of fact is raised; or
 - (3) If a hearing has been requested and a material fact has been raised, set a hearing on the petition.
- (f) The City Manager may also set a hearing if the City Manager determines that a show cause hearing should be conducted, if grounds exist to revoke or suspend a permit issued under this Article, or if grounds exist to terminate utilities on a non-emergency basis.
- (g) Written notice of any hearing set by the City Manager pursuant to Subsections (e) or (f), above, shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.
- (h) Notice shall specify the date, time, and place of the hearing. Notice that is mailed shall be deemed received three (3) days after it is placed in a mail receptacle of the United States Postal Service.
- (i) No decision may be rendered at a hearing by reason of the petitioning party's/alleged violator's failure to appear unless proof of actual service is shown.
- (j) The City Manager may himself/herself conduct the hearing and take evidence, or he/she may designate any employee of the City or any specially-designated attorney or engineer to:
 - (1) Issue in the name of the City notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
 - (2) Take evidence; and
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Manager for action thereon.

At any hearing held pursuant to this Section, testimony taken shall be under oath and recorded. For purposes of this Section, the City Manager or his/her designee shall be empowered to administer oaths and to promulgate procedural rules for the conduct of the hearing. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

- (k) Whenever any deadline specified in this Section falls upon a Saturday, Sunday, or a City-recognized holiday, the deadline shall be the next regular City business day.
- (l) The date of an order or ruling required to be made under this Section shall be deemed to be the date it is signed.
- (m) Decisions shall be based on a preponderance of the evidence. The City shall have the burden of proof in all hearings
- (n) After the City Manager has reviewed the evidence, he/she shall either:
 - (1) Grant the petition;
 - (2) Deny the petition; or
 - (3) Grant the petition in part and deny it in part.

After the conclusion of the hearing, the City Manager shall make written findings of fact and conclusions of law and shall issue a written decision without undue delay. The City Manager may modify his/her order as is appropriate based upon the evidence and arguments presented at the hearing and his/her action on the petition. Further orders and directives as are necessary and appropriate may be issued.

- (o) A hearing shall exhaust all administrative remedies of the petitioning party/alleged violator.

Sec. 13.10.017. Nuisance Abatement.

- (a) Unless specifically stated otherwise, any nuisance as defined within this Article is hereby declared a public nuisance if it exists within the corporate limits of the City or within five thousand (5,000) feet of such limits.
- (b) The Code Enforcement Official may give notice to cease, abate, remove or otherwise remedy a nuisance immediately to:
 - (1) The owner of property upon which a nuisance is located or from which a nuisance originated or is emanating. If the person creating, allowing, or maintaining the nuisance is not the owner of the property, notice shall also be given to such person.
 - (2) Any person creating, allowing, or maintaining a nuisance;
 - (3) Any person with care, custody or control over the premises containing such nuisance.

- (c) The notice must be given:
 - (1) Personally to the owner/person in writing; or
 - (2) By letter addressed to the owner/person at the owner's/person's post office address and sent registered or certified mail (return receipt requested). However, if personal or registered or certified mail service cannot be obtained or the owner's/person's post office address is unknown, notice may be given:
 - (A) By publication in the official newspaper of the City at least twice within ten (10) consecutive days;
 - (B) By posting the notice on or near the front door of each building on the property to which the nuisance relates; or
 - (C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the nuisance relates, if the property contains no buildings.
- (d) The notice may order the owner/person to undertake and implement any appropriate action:
 - (1) To remediate and/or abate any adverse effects of the nuisance upon the MS4, the surface water in the State, the waters of the United States, or any other aspect of the environment; and/or
 - (2) To restore any part of the MS4, the surface water in the State, the waters of the United States, or any other aspect of the environment that has been harmed.
- (e) Such remedial, abatement, and restoration action may include, but not be limited to:
 - (1) Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action;
 - (2) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;
 - (3) Prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the nuisance; and
 - (4) Restoration or replacement of City property or natural resources damaged by the nuisance.
- (f) The notice may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified

period of time. An order issued under this Section does not relieve the violator of liability for any violation, including any continuing violation.

- (g) If the owner/person does not comply with the notice within ten (10) days of service, the Code Enforcement Official may enter any public or private property containing the nuisance and do any work necessary to abate the nuisance, except the demolition of buildings, unless otherwise permitted in accordance with other state law or ordinances.
- (h) If the immediate abatement of the nuisance is deemed necessary by the Code Enforcement Official to protect the environment or the public health, safety, or welfare from an imminent and substantial endangerment, the Code Enforcement Official may, without complying with the notice provisions of this Section or without waiting the ten-day period, enter the subject property and do or cause to be done any work necessary to abate the nuisance and remediate and restore the environment.
- (i) The City Manager shall conduct an abatement hearing, if a person required to receive notice, requests, not later than the thirtieth (30th) day after the date of the abatement, the person files a written request to the City for the abatement hearing. An abatement hearing must be held not later than the twentieth (20th) day after the date of the request for a hearing is filed. The person may testify, present evidence through witnesses or tangible documents relating to the City's abatement.
- (j) After abating the nuisance, the Code Enforcement Official may inform the owner/person in a notice sent registered or certified mail (return receipt requested) that if the owner/person commits another violation of the same kind or nature that poses a danger to the environment or to the public health and safety on or before the first anniversary date of the original notice, the City may without further notice correct the violation at the owner's expense and assess the expense against the owner's property.
- (k) All costs incurred by the City to abate a nuisance and remediate and restore the environment, including the cost of giving notice as required, shall be initially paid by the City and charged to the owner of the property.
- (l) To obtain a lien against the property, the Code Enforcement Official shall file a statement of expenses with the county clerk for the county in which the property is located. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall be security for the costs incurred and interest accruing at the rate of ten (10) percent on the amount due from the date of payment by the City.
- (m) The lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.

- (n) A lien may not be filed against real estate protected by the homestead provisions of the Texas Constitution, except as otherwise may be permitted by applicable law.

Sec. 13.10.018. Civil Penalties.

- (a) The City may enforce the provisions of this Article pursuant to the applicable provisions of Chapter 54 of the Texas Local Government Code, which provides for the enforcement of municipal ordinances.
- (b) A civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation of this Article may be imposed. Each violation of a particular section of this Article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this Article.

Sec. 13.10.019. Criminal Penalties.

- (a) It shall be an offense and a violation of this Article for any person to intentionally or knowingly violate the provisions of this Article, or fail to comply with any requirement set forth herein, including but not limited to:
 - (1) installing or maintaining sampling or monitoring equipment;
 - (2) causing or attempting to cause or create a nuisance as defined herein.
- (b) A conviction for a violation of this Article shall be deemed a misdemeanor. A person convicted of a violation of this Article, shall be fined in an amount not to exceed \$2,000.00 per violation, such offense being a violation of the health and safety ordinances of the City. Each violation of a particular section of this Article shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this Article.

Sec. 13.10.020. Injunction

Any violation of any provision of this Article that constitutes an immediate danger or threat to the health, safety, and welfare of the public may be enjoined in a suit brought by the City for such purposes.

Sec. 13.10.021. Remedies Nonexclusive

The remedies provided for in this Article are not exclusive of any other remedies that the City may have under state or federal law or other City ordinances. The City may take any, all, or any

combination of these actions against a violator. The City is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently.”

SECTION 3. SEVERABILITY CLAUSE. If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES. All ordinances, orders and resolutions heretofore passed and adopted by the City Council of the City of Glenn Heights, Texas are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

SECTION 5. EFFECTIVE DATE. The fact that the present ordinances and regulations of the City of Glenn Heights, Texas, are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the inhabitants of the City of Glenn Heights, Texas, creates an emergency for the immediate preservation of public business, property, health, safety and general welfare of the public that requires that this Ordinance shall become effective from and after the date of its passage and it is accordingly so ordained.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLENN HEIGHTS, TEXAS, THIS THE 16th DAY OF JUNE, 2008.

CITY OF GLENN HEIGHTS



**CLARK CHOATE
MAYOR**

ATTEST:



**OTHEL MURPHREE
CITY SECRETARY**